

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005  
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**Case No. 27 of 2018**

**Dated: 10 January, 2018**

**CORAM: Shri Anand B. Kulkarni, Chairperson**

**In the Matter of  
Petition of OPGS Power Gujarat Private Limited for wrongful action of Maharashtra State Electricity Distribution Co. Ltd. of granting the consent for Open Access under Section 10 of the Electricity Act 2003, mid-way in the FY 2017-18, for the purposes of supply of power by it, which is a Captive Generating Plant, to its Captive Users**

OPGS Power Gujarat Private Limited (OPGS) .....Petitioner

Vs

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) ..... Respondent

Appearance:

For the Petitioner : Shri. Hemant Singh (Adv.)

For the Respondent : Shri. Ashish Singh (Adv.)

Authorised Consumer Representative : Dr. Ashok Pendse (TBIA)

**Daily Order**

Heard the Advocate for the Petitioner and Respondent.

1. Advocate of the OPGS stated that:

- a) The issue raised in the Petition is relating to FY 2017-18. MSEDCL regularly issued consent for Open Access as a Captive Power Plant (CPP) under Section 9 of the Electricity Act (EA), 2003 till December, 2017. However, suddenly in the middle of FY2017-18 for January, 2018 MSEDCL granted Open Access consent under Section 10 of the EA, 2003 treating it as an IPP, which necessitates

imposition of Cross Subsidy Surcharge (CSS) and Additional Surcharge (ASC) on the Open Access consumers.

- b) Another development in the matter is that it has approached the Appellate Tribunal for Electricity (ATE) challenging the Commission's Order in Case No. 180 of 2017 dated 29<sup>th</sup> December, 2017, which was heard by ATE on 9 January, 2018. The ATE has permitted OPGS to file a review Petition before the Commission and extended the interim protection granted to it by the Commission for a further period of two weeks. ATE also ruled that all the contentions with respect to jurisdiction and other issues are left open for both the parties. The Daily Order of ATE is not yet available on its website.

2. Advocate of MSEDCL stated that:

- a) The issue of jurisdiction of the Commission still remains for consideration as OPGS is an Inter-State generating company having Open Access consumers in Punjab, Gujarat and Maharashtra. As per Section 79(1) (b) of the EA, 2003, the Central Commission has a jurisdiction for the present matter as the generating company has a composite scheme.
- b) MSEDCL substituted Open Access consent as IPP from CPP in the middle of the financial year as it has not filed any Petition before the Appropriate Commission for determination of CPP status for last two years. The issue has to be dealt by the Central Commission.

**The Case is reserved for the Order.**

**Sd/-**  
**(Anand B. Kulkarni)**  
**Chairperson**